



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0251]

RIN 1625-AA00

Safety Zone, Temporary Change for Recurring Fifth Coast Guard District Fireworks Displays; Northwest Harbor (East Channel) and Tred Avon River, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard is proposing a temporary change to the enforcement periods and regulated areas of safety zone regulations for two recurring fireworks displays within the Fifth Coast Guard District. This regulation applies to a recurring fireworks display events that take place at Baltimore, MD and Oxford, MD. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Northwest Harbor (East Channel), Patapsco River, and Tred Avon River during the event.

DATES: Comments and related material must be received by

the Coast Guard on or before **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0251 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing or submitting material to the

docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0251), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address,

or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box and insert "USCG-2012-0251" in the "Keyword" box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0251" and click "Search." You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday

through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### Basis and Purpose

Fireworks display events are frequently held on or adjacent to navigable waters within the boundary of the Fifth Coast Guard District. For a description of the

geographical area of each Coast Guard Sector–Captain of the Port Zone, please see 33 CFR 3.25.

This regulation proposes to temporarily change the enforcement period and regulated area for a safety zone for two annually recurring fireworks events, described at (b)(5) and (b)(21) of the Table to 33 CFR 165.506, that are normally scheduled to occur each year on June 14<sup>th</sup> and June and July–Saturday or Sunday before Independence Day holiday, respectively.

On June 16, 2012, the American Flag Foundation will sponsor their annual fireworks event. This event will take place in Baltimore, MD on the waters of the Patapsco River. The regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks.

On July 3, 2012, the Tred Avon Yacht Club will sponsor their annual fireworks event. This event will take place in Oxford, MD on the waters of the Tred Avon River. The regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks.

#### Discussion of Proposed Rule

The Coast Guard proposes to temporarily change the enforcement period and geographic regulated area of the

safety zone for two recurring fireworks events within the Fifth Coast Guard District. This regulation applies to the June 14<sup>th</sup> fireworks event listed at (b)(5) and the June and July–Saturday or Sunday before Independence Day holiday fireworks event listed at (b)(21), both in the Table to Sec. 165.506.

The Table to Sec. 165.506, event (b)(5), establishes the enforcement date and regulated area for the American Flag Foundation fireworks event held in Baltimore, MD. This regulation also temporarily changes the regulated area for the fireworks event. The position is changed to latitude 39°15'54" N, longitude 076°34'40" W (NAD 1983) and the distance is change to a 200 yard radius. The temporary safety zone will be enforced from 8 p.m. to 10:30 p.m. on June 16, 2012, and will restrict general navigation in the regulated area during the event. The American Flag Foundation, which is the sponsor for this event, holds this event annually. Except for participants and vessels authorized by the Coast Guard Captain of the Port Baltimore or the designated on-scene patrol personnel, no person or vessel will be allowed to enter or remain in the regulated area. This regulation is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

The Table to Sec. 165.506, event (b)(21), establishes the enforcement date and regulated area for the Tred Avon Yacht Club fireworks event held in Oxford, MD. This regulation temporarily changes the regulated area for the fireworks event. The position is changed to latitude 38°41'24" N, longitude 076°10'37" W (NAD 1983). The temporary safety zone will be enforced from 8 p.m. to 10:30 p.m. on July 3, 2012, and will restrict general navigation in the regulated area during the event. The Tred Avon Yacht Club, which is the sponsor for this event, holds this event annually. Except for participants and vessels authorized by the Coast Guard Captain of the Port Baltimore or the designated on-scene patrol personnel, no person or vessel will be allowed to enter or remain in the regulated area. This regulation is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

This proposed rule is not a significant regulatory



action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation would restrict access to these areas, the effect of this proposed rule will not be significant because: (i) the safety zones will only be in effect from 8 p.m. to 10:30 p.m. on June 16, 2012 and July 3, 2012, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the sections of the Patapsco River, Northwest Harbor (East Channel), and the Tred Avon River, vessel traffic will be able to transit safely around the safety zone.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with

populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate, transit, or anchor in the specified portions of the Patapsco River, Northwest Harbor (East Channel), from 8 p.m. through 10:30 p.m. on June 16, 2012, and the Tred Avon River, from 8 p.m. through 10:30 p.m. on July 3, 2012. This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) the regulated areas are of limited size, (ii) this proposed rule will only be in effect for five hours total, and (iii) although the safety zone will apply to a section of the Patapsco River and Tred Avon River, vessel traffic will be able to transit safely around the safety zone. Before the enforcement period, the Coast Guard will issue maritime advisories widely available to users of the waterway, to allow mariners to make alternative plans for transiting the affected area.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and

that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems

practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves implementation of regulations at 33 CFR Part 165 that establish safety zones on navigable waters of the United States for fireworks events. These safety zones are enforced for the duration of fireworks display events. The fireworks are launched from or immediately adjacent to navigable waters of the United States and may have potential for negative impact on the safety or other

interest of waterway users and near shore activities in the event area. The category of activities includes fireworks launched from barges at or near the shoreline that generally rely on the use of navigable waters as a safety buffer.

This proposed rule is categorically excluded, under figure 2-1, paragraph (34)(g), of this instruction. This rule establishes a temporary safety zone to protect the public from fireworks fallouts and premature detonations. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department



of Homeland Security Delegation No. 0170.1.

2. Revise the Table to § 165.506 as follows:

a. Under "(b) Coast Guard Sector Baltimore-COTP Zone,"  
suspend number 5,

b. Under "(b) Coast Guard Sector Baltimore-COTP Zone,"  
suspend number 21, and

c. Under "(b) Coast Guard Sector Baltimore-COTP Zone,"  
add numbers 26 and 27, to read as follows:

§ 165.506 Safety Zones; Fifth Coast Guard District  
Fireworks Displays.

\* \* \* \* \*

Table To § 165.506.

[All coordinates listed in theTable to § 165.506 reference  
Datum NAD 1983]

Coast Guard Sector Baltimore - COTP Zone			
Number	Date	Location	Regulated area
* 26.	* June 16th, July 4th, September— 2nd Saturday, December 31st.	* Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.	* All waters of the Patapsco River within a 200 yards radius of the fireworks barge in approximate position 39°15'54" N, 076°34'40" W, located adjacent to the East Channel of Northwest Harbor.
* 27.	* July 3rd.	* Tred Avon River, Oxford, MD, Safety Zone.	* All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position latitude 38°41'24" N, longitude 076°10'37" W, approximately 500 yards northwest of the waterfront at Oxford, MD.

\* \* \* \* \*

Dated: April 11, 2012

Mark P. O'Malley  
Captain, U.S. Coast Guard  
Captain of the Port Baltimore.

[FR Doc. 2012-11140 Filed 05/08/2012 at 8:45 am; Publication Date: 05/09/2012]